

REMARKS

Claims 1-10 and 12-21 are pending in the application. Claims 18-21 have been cancelled by this amendment. Therefore, claims 1-10 and 12-17 are at issue.

Claims 1, 4, and 6-8 have been amended. The amendments to claim 1, 4, and 8, and support therefore, are discussed below in conjunction with each rejection. Claims 6 and 7 have been amended to improve the form of the claims.

Withdrawn claims 18-21 have been cancelled as being drawn to a nonelected invention. Applicants cancelled these claims without prejudice to filing a divisional application directed to the subject matter of these claims.

Claim 1-10 and 12-17 stand rejected under 35 U.S.C. §112, second paragraph. In view of the amendments to the claims, it is submitted that each ground of rejection has been overcome.

With respect to the rejection based on the term "obtainable by", applicants have amended claim 1 to recite "prepared by". Support for this amendment can be found at page 22, line 1, for example, and in claim 8. This amendment clarifies the claims, and overcomes the rejection under 35 U.S.C. §112, second paragraph.

With respect to the rejection based on the term "if applicable", applicants have amended claims 1 and 8 to substitute "optionally" for "if applicable". This amendment clarifies the claims, and overcomes the rejection under 35 U.S.C. §112, second paragraph.

With respect to the terms "up to 10-100%", applicants have amended claim 4 to delete the phrase "up to". This amendment clarifies the claim, and overcomes the rejection under 35 U.S.C. §112, second paragraph.

In summary, it is submitted that the amended claims fully comply with 35 U.S.C. §112, second paragraph, and that the rejection should be withdrawn.

Claims 1-10 and 12-17 stand rejected under 35 U.S.C. §103 as being obvious over WO 99/44648 (WO '648) in view of WO 00/63295 (WO '295). The rejection is based

on the contention that, because WO '648 discloses a superabsorbent foamed article that does not require a basic polymer and WO '295 discloses basic polymers in combination with acidic polymers, the combination of references renders the present claims obvious. Applicants traverse this rejection.

The present claims recite a water-absorbing foam prepared from at least one basic *polymer* and (optionally) *particulate* water-absorbing acidic polymers, in addition to a crosslinker, surfactant, and other optional ingredients. An important feature of the invention is that the foam is prepared from a basic *polymer* and an optional acidic *polymer*.

Independent claims 1 and 8 have been amended to recite that the basic polymer is free of acidic monomers. This amendment is supported in the specification at page 3, line 32 through page 9, line 37. This portion of the specification discloses the basic polymers used in the invention, and fails to indicate that acid monomers can be included in the basic polymer. The claims therefore recite that the basic polymer contains basic monomers and optional comonomers free of acid groups, as set forth in the specification and claims. In particular, the specification, at page 5, lines 29-30, states that comonomers optionally present in the basic polymers "are preferably free of acid groups". Finally, the basic polymer of each of Examples 1-15 of the specification is free of an acid monomer. Accordingly, the amendment to claims 1 and 8 is fully supported by the specification, which shows that the applicants had possession of the presently claimed invention at the time of filing the application.

WO '648 is in the German language. The corresponding English language patent document is U.S. Patent No. 6,455,600 ('600), which will be referred to herein for convenience.

The '600 patent discloses a foam prepared from monoethylenically unsaturated *monomers* which contain acidic groups and other optional monoethylenically unsaturated *monomers*, by foaming the monomers, then *polymerizing* the foamed mixture. Accordingly, the cited reference is directed to *foamed* acidic polymers that optionally are copolymerized with optional monomers (b) disclosed at column 5, lines 11-57 of the '600 patent. An essential feature of the foams of the '600 patent is the presence of acidic monomers.

The presently claimed foams are substantially different from, and prepared in a substantially different way from, the foams disclosed in the '600 patent. First, the presently claimed foam is based on a basic polymer, not an acidic polymer as disclosed in the '600 patent. Second, in the present claims, a basic *polymer* is foamed, i.e., is polymerized prior to foaming. Third, the basic polymer is free of acid monomers, thus the basic polymer is not prepared in the presence of an acid polymers. Fourth, the present claims recite the optional presence of *particles* of an acidic *polymer*, i.e., an acidic polymer that is formed prior to preparation of the foam.

Based on these substantial differences, it is submitted that the '600 patent would not have rendered the present claims obvious. A person skilled in the art would have had to make numerous jumps in reasoning to arrive at the presently claimed invention after reading the '600 patent. First, a person skilled in the art would have to decide to prepare a foam based on a basic polymer free of acid groups, even though the '600 patent teaches a foam based on an *essential* acidic polymer containing an optional basic comonomer. The '600 patent provides no reason, but teach away from, eliminating an acidic monomer or polymer component from the foam. Second, a person skilled in the art would have to decide to prepare a foam from already formed polymers, then crosslinking the basic polymer in the foam. In contrast, the '600 patent is limited to teaching a foam prepared from monomers that are polymerized and crosslinked during the foaming process.

It should also be noted that crosslinking in the '600 patent also is substantially different from the presently claimed crosslinking. The cited reference teaches crosslinking of the polymer backbone through the carbon-carbon double bonds of the monomers via a free radical mechanism. In the present foam, basic polymers are crosslinked *via* the pendant amino groups, not *via* the polymer backbone. The crosslinkers used in the present invention are different from those in the '600 patent.

The '600 patent provides neither an incentive nor any apparent reason for a person skilled in the art to make these numerous and radical jumps in reasoning required to arrive at the presently claimed invention. The secondary WO '295 reference fails to overcome the deficiencies of the primary WO '648 reference.

WO '648 merely discloses a mixture of acidic and basic hydrogel polymers. WO '648 is totally silent with respect to foams, and provides no incentive or apparent reason to form a foam from the disclosed polymer mixture. Furthermore, WO '295 provides no reason to eliminate the acidic polymer from the mixture and form a foam from only the basic polymer. The acidic polymer is essential to both the WO '295 and WO '648 disclosures and the WO '295 disclosure is silent with respect to preparing foams.

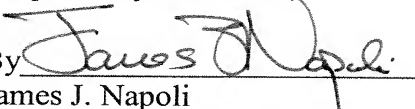
The combination of WO '648 and WO '295 therefore fails to render the present claims obvious. Both references disclose an acidic monomer or polymer as an essential element. The combination of references provides no reason or incentive from a reading of the WO '648, which is directed to foams of acidic polymers prepared from monomers, to form the polymer mixture of WO '295, then foam and crosslink the resulting mixture. Neither reference teaches or suggests eliminating the acid monomer and/or polymer. Accordingly, it is submitted that the rejection of pending claims 1-10 and 12-17 over a combination of WO '648 and WO '295 should be withdrawn.

It is submitted that the claims are in proper form and scope for allowance. An early and favorable action on the merits is respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form in an effort to advance this application toward allowance, the examiner is urged to telephone the undersigned at the indicated number.

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Respectfully submitted,

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